

interpreter of the federal Constitution, is that not true?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: Yes, sir, except it was the First Amendment, not the Sixth. That is correct.

DELEGATE J. CLARK (presiding): Delegate Henderson.

DELEGATE HENDERSON: I would suggest it would be a most unfortunate situation if the Court of Appeals was bound by its own interpretation which it placed on the federal Constitution if that were modified in principle by the Supreme Court.

In other words, I should think it would be a very unfortunate situation if the Supreme Court should have interpreted it one way and then the Court of Appeals, based on a former or an erroneous interpretation, should interpret it another way.

In other words, it seems to me that the thing should go up or down depending on which way the Supreme Court decides it.

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: This is correct, sir, subject only to what further interpretation or subject to whatever acts the General Assembly might want to modify the situation by.

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Gallagher.

DELEGATE GALLAGHER: Chairman Kiefer, I think that many people are in sympathy with the situation in which you find yourself in trying to discuss this church-state matter, because there are people who have spent a lifetime, and even the experts do not agree.

Again, without trying to fence in any way, was it the intention of your Committee to overrule any Maryland Court of Appeals case involving matters of church and state by the determination it has made?

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: Well, I do not know that this Committee ever attempted to overrule anything the Court of Appeals did, no.

DELEGATE J. CLARK (presiding): Delegate Gallagher.

DELEGATE GALLAGHER: I asked you that for this reason. In the last two years there have been three very significant church-state cases of which the Mann case was one. The first was *Murray v. Comptroller* which held that the Maryland exemption granted to churches and houses of worship and parsonages was not unconstitutional either under the Maryland Constitution or the federal Constitution. That was the unanimous decision of the Court of Appeals.

The next case in sequence was Horace Mann, which held that Notre Dame College, St. Joseph's at Emmitsburg, and Western Maryland College were so sectarian that under their interpretation of the First Amendment it violated the "no establishment clause" under criteria which it set up, as you pointed out.

The third case was the *Truitt v. Tawes* case which said that even though a hospital may be sponsored by a religious organization, the State in granting loans to it did not violate either the Maryland Constitution or the religion clauses of the First Amendment because of the public purpose it serves, as you pointed out, despite the fact there were chapels in the hospital, and there was in effect a house of worship.

Prior to that time, of course, there were two Maryland Court of Appeals cases involving school bus transportation, the St. Mary's County case and the Baltimore County case.

Now, I would presume that, in taking the position that you identify as your Committee's rationale, that it wants to effectuate the separation of church and state as was done in the Horace Mann case, you have not attempted to overrule any of the prior church-state cases or the subsequent church-state cases.

DELEGATE J. CLARK (presiding): Delegate Kiefer.

DELEGATE KIEFER: I think this is correct.

DELEGATE J. CLARK (presiding): Delegate Gallagher.

DELEGATE GALLAGHER: I have one further question. You have quoted from Everson, and you have selected a certain paragraph.

Would the Committee, and did the Committee intend to take the complete text of the majority opinion of Everson, from which you have quoted, and holding as a principle consistent with the separation of church and state?